

WAIVING FILING FEES IN BC SMALL CLAIMS COURT



Community Legal Assistance Society
providing specialized legal assistance to promote social justice since 1971

© February 2011 Community Legal Assistance Society

Author: Michael McCubbin

This publication is based on the BC Small Claims Court Rules in force February 1, 2011.

This publication may not be reproduced commercially, but copying for other purposes, with credit, is encouraged. Putting this material on the web for commercial or non-commercial purposes is prohibited without the written consent of Community Legal Assistance Society.

A PDF edition of this guide is available at www.clasbc.net



The publication of this guide is made possible by funding from the Law Foundation of British Columbia.

Small Claims in the Provincial Court of BC

Applying to waive filing fees

This guide is intended to help make Small Claims Court cheaper for you.

Small Claims Court is meant to be accessible to everyone to help settle less serious disputes. Many, if not most, people appear in Small Claims Court without a lawyer.

Whether you are a plaintiff or a defendant, there are various filing fees associated with being in Small Claims Court. These are detailed in Schedule A.

If you cannot afford any of these fees, you may apply and ask to not have to pay these fees. This might save you hundreds of dollars. You must make this application each time you want to do something that would require a filing fee. Doing it once does not apply to every time you need to file. Therefore, either be organized and have all your documentation ready for filing when you apply to have filing fees waived or be ready to apply more than once to have filing fees waived.

One of the most important things to know about Small Claims Court and Provincial Court generally is that it is accessible. Judges and staff are used to dealing with people who are not familiar with the Court's procedures or the locations of its different services. In particular, the Registry has copies of all forms you might need and can answer questions about how to fill out those forms. Do not be too shy to ask, because you might get important help. However, they CANNOT give you legal advice. Registry staff will tell you what forms you need and check for the minimum info required for filing, but they will not help you fill out the form.

Making the Application

How to do it

You must apply to the Small Claims Court Registry. The Registry is what you probably think looks like a service counter in the courthouse. In larger courthouses, such as Vancouver, there will be separate counters for your specific legal issue (e.g. family, traffic, Small Claims, etc.). In smaller courthouses, there may only be one counter at the Registry.

You have four things to do to make the application:

- 1- Fill out Form 16;
- 2- Fill out a Statement of Finances;
- 3- Get the other required information together; and
- 4- File Form 16, the Statement of Finances, and the required information with the Small Claims Court Registry

Form 16

You must start by filling out Form 16 (“Application to the Registrar”). A copy of Form 16 is at the end of this guide. You can also get a copy Form 16 to use at the Small Claims Court Registry or online at:

<http://www.ag.gov.bc.ca/courts/forms/scl/scl016.pdf>

If you want to waive the fees for filing a notice of claim, you must bring your properly completed notice of claim with you to the Registry.

When filling out this form, check the “exempting the applicant from paying fees” box when asked what kind of order you are applying for. Then, in the lines below, specify what kind of document you want to file (e.g. filing a “Reply”).

Statement of Finances

A copy of a “Statement of Finances” form is included in this guide.

It is also available at the Small Claims Court Registry or online at

<http://www.ag.gov.bc.ca/courts/forms/scl/scl024.pdf>

Fill this out honestly and fully. If you are not receiving an income from a certain source (e.g. tips & gratuities), be sure to provide some indication or explanation for that instead of leaving the space blank. You might just mark “N/A” in the space if that is all the explanation required for your circumstances.

Other required information

When you file your Statement of Finances, you may be required to provide the documentation listed at the bottom of that form. This includes:

- The last two years’ tax returns and T4 slips;
- If unemployed, proof of most recent source of income (e.g. income assistance checks);
- Copies of your last two months’ utility bills (hydro, phone, cable);
- Your last six monthly bank statements from all banks;
- Copies of any mortgage/rent agreements for last six months; and
- Anything else that might tend to show your financial position (e.g. letters from collection agencies, proof of dependent children or parents, etc.)

The Registrar will not always require this information. If you are on some type of government income assistance, then it is unlikely that any information will be required except proof of income assistance and the information you put in the Statement of Finances. However, the Registrar will need to see more

information if your Statement of Finances does not make it clear that you cannot afford to pay the filing fees.

Going to the Registry and possible outcomes

When you go to the Registry, make sure you have all the required information. If your application does not have all the required information, then it may take more time to process your application because you will need to retrieve that information before the Registrar can consider it.

Essentially the Registrar will look for how much room there is in your budget to be able to pay the filing fees. For example, if your income is less than or equal to your expenses, but you have a significant amount of money in the bank, then you can see that you are unlikely to get your fees waived.

The Registrar will also consider the merit of your claim. For example, if you are suing someone for an amount of money that it impossible to justify, then the Registrar might refer your application to a judge. Another example might be if you named a defendant who is not the right person to be named (e.g. naming the president of a large company for something that happened between you and a customer service representative).

The Registrar will consider if it would be unjust to prevent you from bringing your lawsuit because you cannot afford to pay the fees. The answer to that question is that it would almost always be unjust. However, if there is no merit to your claim, then it is possible it would not be unjust to prevent you from bringing your lawsuit.

If the Registrar allows your application, then you are done. The Registrar will stamp your application and allow you to file your paper work without paying the filing fee.

If the Registrar denies your application, you can apply to a judge to have him or

her review the Registrar's decision.

If the Registrar refers your application to a judge, you may have to appear before a judge and explain to him or her why you cannot afford to pay the filing fees. The judge will most likely ask you questions about your financial circumstances and your reason for wanting to file the documents in question. However, the judge may make the order without a hearing. Whatever happens, you will be notified in any case, so be sure to check your mail and be in touch with the Registry.

Once your filing fees have been waived

Once you have been granted the application, you do not have to pay the filing fee for the specific document you need to file. Bring the Registrar's order with you when you file that paperwork. Keep in mind; the next time you might need to file a document, you will need to apply again. You will have to show updated information about your finances, so be prepared to use this guide once more.

Schedule A

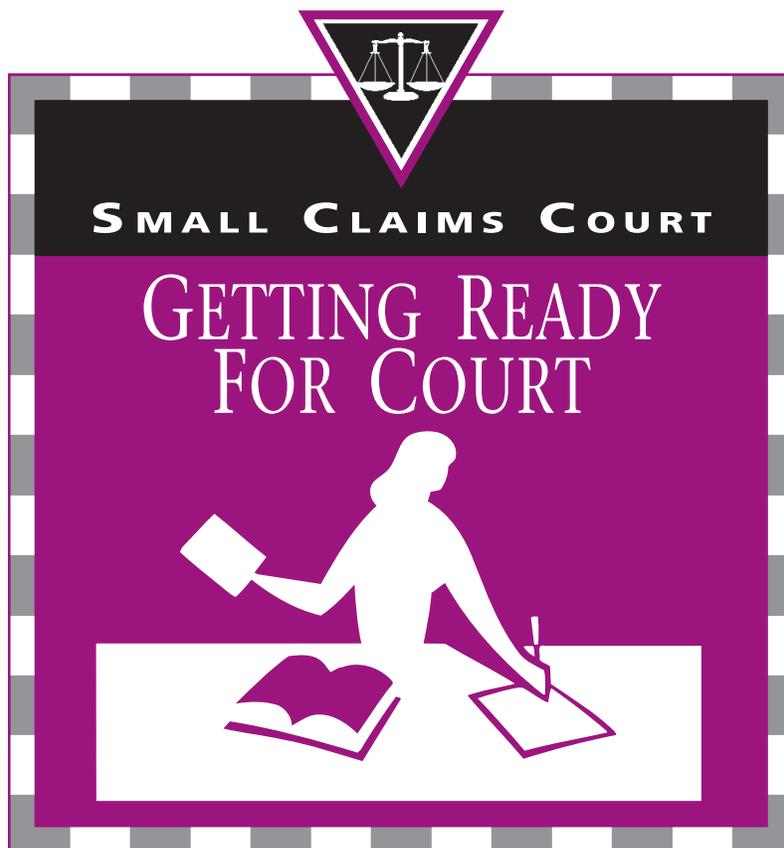
Fees

Registry Services		\$
1	For filing a notice of claim (a) for claims up to and including \$3 000 (b) for claims over \$3 000	100 156
2	For filing a reply, unless the defendant has agreed to pay all of the claim (a) for claims up to and including \$3 000 (b) for claims over \$3 000	26 50
3	For filing a counterclaim or a revised reply containing a new counterclaim (a) for counterclaims up to and including \$3 000 (b) for counterclaims over \$3 000	100 156
4	For filing a third party notice	25
5	For filing an application for a default order	25
5.1	For returning confirmation of acceptance or refusal of a filing transmitted to a fax filing pilot project registry by fax, by mail or fax	10
5.2	For filing a request for judgment or for dismissal	25
5.3	For filing an application for a mediation compensation order	25
6	For a search of a record, other than (a) an electronic search conducted from outside the registry, or (b) a search of a record of a proceeding by (i) a party to that proceeding, or (ii) the party's solicitor	8
6.1	For returning by mail, fax or electronic mail the results of a search of an existing case, the aggregate of the following: (a) fee for returning the results (b) cost per page faxed or mailed	10 1
6.2	For accessing from outside the registry, including, without limitation, viewing, printing or downloading, any record that is found by or created in response to an electronic search or request, including, without limitation, an index of cases produced in response to a search query	6
7	For copies, per page	1
8	For a certified copy of a record (a) for 10 pages or less (b) for each additional page over 10 pages	21 6
9	For a certificate of judgment or any other certificate	30
10	For filing a certified copy of an order (a) from another registry of the court, except for a Restitution Order made under the <i>Criminal Code</i> (b) of an arbitrator under the <i>Residential Tenancy Act</i>	21 21
11	For taking or swearing an affidavit for use in the court, except for taking or swearing an	

	affidavit in the course of a person's duties as a peace officer or as an agent or officer of British Columbia or an affidavit of non-compliance under Rule 7 (20)	31
12	For filing the records required for the issue of a garnishing order	40
14	For resetting a trial or hearing with less than 30 days' notice before the date of the proceeding as set on the trial list, unless the matter must be reset due to the unavailability of a judge	100

In addition to any other fees payable under this Schedule, a further fee of \$7.00 must be paid for transmitting a document package to a registry through the electronic filing service of Court Services Online. For the purposes of this provision, a "document package" is any document or, if a group of documents is transmitted at one time in relation to the same court file, that group of documents.

APPLICATION TO THE REGISTRAR



PROVINCIAL COURT OF BRITISH COLUMBIA

STATEMENT OF FINANCES

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

I, _____, _____,
state:

(STRIKE OUT ANYTHING THAT DOES NOT APPLY TO YOU AND INITIAL.)

1. I am married / single / other (specify): _____

2. I support and maintain (specify number):

_____ Children under 18

_____ other dependants

3. Listed below is an accurate "Statement of Finances" of my household.

MONTHLY INCOME		MONTHLY EXPENSES	
Net Salary	\$ _____	Rent	\$ _____
Commissions	\$ _____	Mortgage	\$ _____
Tips and Gratuities	\$ _____	Property Taxes	\$ _____
Unemployment Insurance	\$ _____	Utilities (heat & light)	\$ _____
Pension	\$ _____	Phone	\$ _____
Investments	\$ _____	Cablevision	\$ _____
Rentals	\$ _____	House/Tenant Insurance	\$ _____
Business Income	\$ _____	Life Insurance	\$ _____
Child Tax Benefit	\$ _____	Food	\$ _____
Maintenance (if any)	\$ _____	Restaurant Meals	\$ _____
Workers' Compensation	\$ _____	Sundries & Personal Grooming	\$ _____
Monthly Income of Spouse/Common-Law Spouse living with me	\$ _____	Clothing	\$ _____
Income of Children (if any)	\$ _____	Laundry & Dry Cleaning	\$ _____
Other	\$ _____	Motor Vehicle (lease or loan)	\$ _____
SUB-TOTAL	\$ _____	(license, insurance, fuel & service)	\$ _____
Income Assistance	\$ _____	Transportation (public)	\$ _____
A. INCOME TOTAL	\$ _____	Newspapers & Subscriptions	\$ _____
		Entertainment	\$ _____
		Alcohol & Tobacco	\$ _____
		Gifts	\$ _____
		Church & Charities	\$ _____
		Maintenance Payments	\$ _____
		Child Care & Babysitting	\$ _____
		School Expenses/Children's Activities, Lessons	\$ _____
		Other	\$ _____
		B. EXPENSES TOTAL	\$ _____

MONTHLY DEBTS	VALUE OF ASSETS
Credit Card(s): (please specify)	Real Estate Equity
_____ \$ _____	Market Value \$ _____
_____ \$ _____	Mortgage Balance \$ _____
_____ \$ _____	
Bank or Finance Company: (please specify)	Automobile Equity
_____ \$ _____	Make and Year _____
_____ \$ _____	Market Value \$ _____
_____ \$ _____	Loan Balance \$ _____
Department Store(s): (please specify)	
_____ \$ _____	Bank or Other Account (include RRSP's) \$ _____
_____ \$ _____	Stocks & Bonds \$ _____
_____ \$ _____	Life Insurance \$ _____
Other:	Money owing to you \$ _____
_____ \$ _____	Name of Debtor _____
_____ \$ _____	
_____ \$ _____	Personal Property \$ _____
	Cash \$ _____
C DEBT PAYMENT TOTAL \$ _____	Other \$ _____

If you need more space for any item on this Statement, attach an extra sheet and sign it.

A. INCOME TOTAL		\$ _____
B. EXPENSES TOTAL	-	\$ _____
SUB-TOTAL	=	\$ _____
C. DEBT PAYMENT TOTAL	-	\$ _____
BALANCE	=	\$ _____

Date: _____

Signed:

Print Name: _____

Copies of this form:
 If you have been summonsed to court, bring the original of this *Financial Statement* and two copies to court to be filed. One copy is for you and the other is for the other party.

Reminder:
 Be sure to bring any documents specifically required by a summons you may have received.
 If there are no documents mentioned on the summons, you should bring the following items to support your Statement of Finances:

- Copies of your last 2 years' Income Tax Returns and T-4 slips
- If you are not employed, recent proof of the source and amount of your income (such as your 3 most recent Employment Insurance benefit statements)
- copies of your last 2 months utility bills for hydro, telephone and cable
- copies of your last 6 monthly bank statements for all bank accounts
- copies of any mortgage or rent agreements and receipts for the last 6 months
- any other documents you feel are important to establish your financial situation